

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 229 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?

4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

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PATEL MOHANBHAI KARAMSHIBHAI

Versus

PATEL DEVSHIBHAI PATABHAI

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Appearance:

MR SV PARMAR for Petitioner  
MR SURESH M SHAH for Respondent No. 1 & 2  
MR UR BHATT ASSTT. GOVERNMENT PLEADER  
for Respondent No. 3, 4

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CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 07/09/2000

ORAL JUDGEMENT

Original plaintiff of Special Civil Suit No. 77  
of 1992 pending on the file of learned Civil Judge  
(Senior Division), Junagadh, (who will be referred to

hereinafter as learned Judge of the trial Court) has filed this present appeal under Sec.104(1) of the C.P.Code, 1908 read with Order 43 Rule 1(r) of the C.P.Code, 1908, challenging an order dt. 28th May, 1993 passed below Ex.5 in aforesaid suit.

2. The appellant is the original plaintiff, while the respondents are the original defendants in the suit.

3. When this appeal was taken up for final hearing, learned advocates for both the parties jointly submitted that this appeal may be disposed of by giving certain directions to the learned Judge of the trial Court without assigning reasons in the order as order of status quo to be maintained by both the parties is still continuing since last seven years.

4. Having heard the learned advocates for both the parties and on going through the order which is challenged in this appeal, this court finds that this appeal is required to be disposed of by giving suitable directions to the learned Judge of the trial Court, and accordingly the directions are given hereinbelow :-

(i) Learned Judge of the trial Court i.e. Civil Judge (Senior Division), Junagadh is directed to dispose of Special Civil Suit No. 77 of 1992 pending on his file at the earliest, preferably within one year by affording all opportunities of being heard to both the parties without being influenced by this order;

(ii) As submitted by learned advocates for both the parties, both the parties are directed to maintain status quo as of this day with regard to subject matter of the suit i.e. land bearing Survey No. 295/2 till final disposal of the suit.

(iii) Both the parties are directed to fully co-operate learned Judge of the trial Court in whose Court Special Civil Suit No. 77 of 1992 is pending so as to enable him to dispose of the same within stipulated time given by this order.

5. With the aforesaid directions, this appeal stands disposed of. No order as to costs.

Date: 7/9/2000. (H.H.MEHTA, J.)  
ccshah